



Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013

Select Legislative Instrument No. 278, 2013

I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the Acts mentioned in section 3.

Dated 12 December 2013

Quentin Bryce
Governor-General

By Her Excellency's Command

Arthur Sinodinos AO
Assistant Treasurer

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1 Name of regulation

This regulation is the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under the following Acts:

- (a) the *Retirement Savings Accounts Act 1997*;
- (b) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;
- (c) the *Superannuation Industry (Supervision) Act 1993*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Retirement Savings Accounts Regulations 1997

1 After sub-subparagraph 1.07(3A)(e)(vii)(B)

Insert:

- or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

2 After subparagraph 1.08(2)(d)(ii)

Insert:

- or (iii) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (iv) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

3 Subregulation 4.01(2) (definition of *non-commutable allocated pension*)

Repeal the definition, substitute:

non-commutable allocated pension has the meaning given by regulation 4.01AA.

4 After regulation 4.01

Insert:

4.01AA Meaning of *non-commutable allocated pension*

- (1) In this Part and Schedule 2, *non-commutable allocated pension* means a pension provided under the terms and conditions of an RSA that:
 - (a) meet the standards of subregulation 1.07(2); and
 - (b) ensure that, if the pension is commuted, the resulting superannuation lump sum cannot be cashed unless:
 - (i) the purpose of the commutation is mentioned in subregulation (2); or

- (ii) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is “Nil”; or
- (iii) the purpose of the commutation is to satisfy an obligation to pay an amount to the Commissioner of Taxation under subsection 20F(1) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

(2) For subparagraph (1)(b)(i), the purpose is any of the following:

- (a) to cash an unrestricted non-preserved benefit;
- (b) to pay a superannuation contributions surcharge;
- (c) to give effect to an entitlement of a non-member spouse under a payment split;
- (d) to ensure that a payment may be made for the purpose of giving effect to a release authority under any of the following:
 - (i) section 292-415 of the 1997 Tax Act;
 - (ii) section 292-80C of the *Income Tax (Transitional Provisions) Act 1997*;
 - (iii) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*;
 - (iv) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*.

5 Paragraph 4.26(4)(a)

Repeal the paragraph, substitute:

- (a) the RSA provider has received a release authority in respect of the RSA holder under:
 - (i) section 292-410 or 292-420 of the 1997 Tax Act; or
 - (ii) section 96-10, 135-40 or 135-45 in Schedule 1 to the *Taxation Administration Act 1953*; and

6 Schedule 2 (after table item 111)

Insert:

| | | |
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| 111A | The Commissioner of Taxation gives a superannuation provider a release | The restrictions contained in sections 96-20 and 96-25 in |
|------|--|---|

Schedule 1 Amendments

| | | |
|------|---|---|
| | authority under subsection 96-10(1) in Schedule 1 to the <i>Taxation Administration Act 1953</i> | Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 111B | A person gives a superannuation provider a release authority under section 135-40 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 111C | The Commissioner of Taxation gives a superannuation provider a release authority under subsection 96-10(1) or section 135-45 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |

Superannuation Contributions Tax (Assessment and Collection) Regulations 1997

7 Paragraph 2A(a)

After “Act”, insert “or Regulations”.

8 After Part 4

Insert:

Part 5—Transitional arrangements

25 Transitional arrangements arising out of the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013*

- (1) The amendment of these Regulations made by item 11 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 17 February 2001.
- (2) The amendment of these Regulations made by item 13 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 1 August 2009.

- (3) The amendment of these Regulations made by item 15 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 25 December 2012.

9 Part 1 of Schedule 1 (heading)

Repeal the heading, substitute:

**Part 1—Commonwealth, State or Territory Acts
and Regulations**

10 Schedule 1 (table items 153, 161 and 164)

Repeal the items.

**11 Part 1 of Schedule 1 (at the end of the table items dealing
with Western Australia)**

Add:

165 *State Superannuation Act 2000*

12 Schedule 1 (table item 171)

Repeal the item, substitute:

171 *Governors' Pensions Act 1976*

13 Schedule 1 (table item 175)

Repeal the item, substitute:

175 *Southern State Superannuation Act 2009*

14 Schedule 1 (table items 181, 183, 184 and 186)

Repeal the items.

15 Part 1 of Schedule 1 (at the end of the table items dealing with Tasmania)

Add:

187 *Retirement Benefits (Parliamentary Superannuation) Regulations 2012*

16 Part 2 of Schedule 1 (subheading dealing with South Australia)

Repeal the subheading.

17 Schedule 1 (table item 221)

Repeal the item.

Superannuation Industry (Supervision) Regulations 1994

18 After sub-subparagraph 1.05(2)(f)(vi)(B)

Insert:

or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or

(D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

19 After sub-subparagraph 1.05(9)(h)(viii)(B)

Insert:

or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or

(D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

20 After sub-subparagraph 1.05(10)(d)(vii)(B)

Insert:

or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or

(D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

21 After sub-subparagraph 1.06(2)(e)(vi)(B)

Insert:

- or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

22 After sub-subparagraph 1.06(7)(g)(viii)(B)

Insert:

- or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

23 After sub-subparagraph 1.06(8)(d)(vii)(B)

Insert:

- or (C) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (D) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

24 Subregulation 6.01(2) (definition of *non-commutable allocated annuity*)

Repeal the definition, substitute:

non-commutable allocated annuity has the meaning given by regulation 6.01AA.

25 Subregulation 6.01(2) (definition of *non-commutable allocated pension*)

Repeal the definition, substitute:

non-commutable allocated pension has the meaning given by regulation 6.01AB.

26 After regulation 6.01

Insert:

6.01AA Meaning of *non-commutable allocated annuity*

- (1) In this Part and Schedule 2, *non-commutable allocated annuity* means an annuity provided under a contract that:
- (a) meets the standards of subregulation 1.05(4); and
 - (b) ensures that payments of benefits are made only in accordance with the rules set out in regulations 6.16, 6.18, 6.19 and 6.22A, as if:
 - (i) the annuity were a regulated superannuation fund; and
 - (ii) the annuitant were a member of the fund; and
 - (iii) the annuity provider were a trustee of the fund; and
 - (c) ensures that, if the annuity is commuted, the resulting superannuation lump sum cannot be cashed unless:
 - (i) the purpose of the commutation is mentioned in subregulation (2); or
 - (ii) before commutation, the annuitant has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is “Nil”; or
 - (iii) the purpose of the commutation is to satisfy an obligation to pay an amount to the Commissioner of Taxation under subsection 20F(1) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.
- (2) For subparagraph (1)(c)(i), the purpose is any of the following:
- (a) to cash an unrestricted non-preserved benefit;
 - (b) to pay a superannuation contributions surcharge;
 - (c) to give effect to an entitlement of a non-member spouse under a payment split;
 - (d) to ensure that a payment may be made for the purpose of giving effect to a release authority under any of the following:
 - (i) section 292-415 of the 1997 Tax Act;
 - (ii) section 292-80C of the *Income Tax (Transitional Provisions) Act 1997*;
 - (iii) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*;

-
- (iv) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*.

6.01AB Meaning of *non-commutable allocated pension*

- (1) In this Part and Schedule 2, *non-commutable allocated pension* means a pension provided under rules of a superannuation fund that:
- (a) meet the standards of subregulation 1.06(4); and
 - (b) ensure that, if the pension is commuted, the resulting superannuation lump sum cannot be cashed unless:
 - (i) the purpose of the commutation is mentioned in subregulation (2); or
 - (ii) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is “Nil”; or
 - (iii) the purpose of the commutation is to satisfy an obligation to pay an amount to the Commissioner of Taxation under subsection 20F(1) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.
- (2) For subparagraph (1)(b)(i), the purpose is any of the following:
- (a) to cash an unrestricted non-preserved benefit;
 - (b) to pay a superannuation contributions surcharge;
 - (c) to give effect to an entitlement of a non-member spouse under a payment split;
 - (d) to ensure that a payment may be made for the purpose of giving effect to a release authority under any of the following:
 - (i) section 292-415 of the 1997 Tax Act;
 - (ii) section 292-80C of the *Income Tax (Transitional Provisions) Act 1997*;
 - (iii) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*;
 - (iv) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*.

27 Paragraph 6.01B(3)(b)

Omit “202, 202A, 203, 204, 204A, 209 and 209A”, substitute “113A, 202, 202A, 203, 204, 204A, 209, 209A and 212”.

28 Paragraph 6.22(4)(a)

Repeal the paragraph, substitute:

- (a) the superannuation provider has received a release authority in respect of the member under:
 - (i) section 292-410 or 292-420 of the 1997 Tax Act; or
 - (ii) section 96-10, 135-40 or 135-45 in Schedule 1 to the *Taxation Administration Act 1953*; and

29 Paragraph 6.26(2)(a)

Repeal the paragraph, substitute:

- (a) the superannuation provider has received a release authority in respect of the member under:
 - (i) section 292-410 or 292-420 of the 1997 Tax Act; or
 - (ii) section 96-10, 135-40 or 135-45 in Schedule 1 to the *Taxation Administration Act 1953*; and

30 After subparagraph 6.27(b)(ii)

Insert:

- or (iii) sections 96-20 and 96-25 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (iv) section 135-75 in Schedule 1 to the *Taxation Administration Act 1953*;

31 At the end of Part 14

Add:

**Division 14.3—Transitional arrangements arising out of
the Superannuation Legislation Amendment
(2013 Measures No. 2) Regulation 2013**

14.04 Arrangements

- (1) The amendment of these Regulations made by item 32 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 1 July 1997.
- (2) The amendment of these Regulations made by item 33 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 1 January 2013.
- (3) The amendment of these Regulations made by item 38 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 15 May 1999.
- (4) The amendment of these Regulations made by item 39 of Schedule 1 to the *Superannuation Legislation Amendment (2013 Measures No. 2) Regulation 2013* applies on and after 25 December 2012.

32 Part 3 of Schedule 1AA (items dealing with Victoria)

After:

Parliamentary Salaries and Superannuation Act 1968

insert:

Police Regulation Act 1958

33 Part 3 of Schedule 1AA (at the end of the items dealing with South Australia)

Add:

Other schemes

Super SA Select

34 Part 3 of Schedule 1AA (items dealing with Western Australia)

Omit “*Superannuation and Family Benefits Act 1938*”.

35 Part 3 of Schedule 1AA (items dealing with Tasmania)

Omit “*Governor of Tasmania Act 1982*”.

36 Part 3 of Schedule 1AA (items dealing with Tasmania)

Omit “*Parliamentary Retiring Benefits Act 1985*”.

37 Part 3 of Schedule 1AA (items dealing with Tasmania)

Omit “*Parliamentary Superannuation Act 1973*”.

38 Part 3 of Schedule 1AA (items dealing with Tasmania)

Insert:

Public Sector Superannuation Reform Act 1999

39 Part 3 of Schedule 1AA (items dealing with Tasmania)

Insert:

Retirement Benefits (Parliamentary Superannuation) Regulations 2012

40 Part 3 of Schedule 1AA (items dealing with Tasmania)

Omit “*Solicitor-General Act 1983*”.

41 Part 1 of Schedule 1 (after table item 111)

Insert:

| | | |
|------|---|---|
| 111A | The Commissioner of Taxation gives a superannuation provider a release authority under subsection 96-10(1) in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 96-20 and 96-25 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 111B | A person gives a superannuation provider a release authority under section 135-40 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 111C | The Commissioner of Taxation gives a superannuation provider a release authority under subsection 96-10(1) or section 135-45 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |

42 Part 2 of Schedule 1 (after table item 208)

Insert:

| | | |
|------|---|---|
| 208A | The Commissioner of Taxation gives a superannuation provider a release authority under subsection 96-10(1) in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 96-20 and 96-25 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 208B | A person gives a superannuation provider a release authority under section 135-40 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |
| 208C | The Commissioner of Taxation gives a superannuation provider a release authority under subsection 96-10(1) or section 135-45 in Schedule 1 to the <i>Taxation Administration Act 1953</i> | The restrictions contained in sections 135-75 and 135-85 in Schedule 1 to the <i>Taxation Administration Act 1953</i> |